California Capitol Hill Bulletin

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To expand communications between Washington and California, the California Institute provides periodic news bulletins regarding current activity on Capitol Hill and other information that directly impacts the state. Bulletins are published weekly during sessions of Congress, and occasionally during other periods.

CONGRESS: HOUSE AND SENATE SET TO BEGIN 5-WEEK HIATUS

The House and Senate are poised to finish business this week and begin their annual five-week August break. Both bodies are due to reconvene on Tuesday, September 3, 2013.

Left unfinished by both bodies before adjourning was the FY14 Transportation-HUD appropriations bill. Action on the funding was derailed in both bodies. The House leadership pulled its version this week because of scheduling concerns and substantial opposition to the bill from some Republicans, as well as Democrats. In the Senate, the Republican minority successfully filibustered the bill, preventing it from moving forward.

Other legislation awaiting consideration in September includes the farm bill. The Senate passed its version reauthorizing both farm programs and food nutrition programs. But the House stripped the food programs from its bill and only passed the farm bill provisions. Almost all of the appropriations bills remain unconsidered, likely setting the need for a Continuing Resolution to fund the government before the beginning of the new fiscal year on October 1st. Getting an agreement on the CR is expected to present a serious problem and the threat of a government shutdown looms.

The California Capitol Hill Bulletin will also be on hiatus during the Congressional recess. It will be published again on September 5, 2013.

APPROPRIATIONS: SENATE COMMITTEE REPORTS FY14 DEFENSE APPROPRIATIONS

The Senate Appropriation's Committee advanced a fiscal 2014 Defense spending bill on Thursday, August 1, 2013. The Defense Appropriations Subcommittee reported the bill on July 30th. The bill provides $594.4 billion in funding for base and overseas contingency operation funding, compared to $604.7 billion in pre-sequester fiscal year 2013 funds. The legislation would fund overseas
contingency operations at $77.8 billion, $4.5 billion less than the House level and $2.9 billion less than the President's request. It would fully fund the procurement of 29 F-35 fighter jets, but cut an undisclosed amount from a 2015 increase in production. The measure also would provide $98.4 billion for procurement, an increase of $215 million over the president's budget request.

Other bill highlights include:

- **Military Personnel:** $129.1 billion in the base for military personnel, including a one percent pay raise.

- **Operation and Maintenance:** $178.6 billion, including increases for readiness, depot maintenance, and Facilities Sustainment, Restoration and Modernization. The bill also eliminates $8 million in funding associated with the proposed 2015 Base Realignment and Closure round which has not been authorized.

- **Procurement:** $98.4 billion, which is an increase of $215 million over the request. Fully funds the 2014 procurement quantities for the F-35 Joint Strike Fighter, but limits funding for a 2015 production ramp. Fully funds the following aircraft procurements: Army CH-47 Chinook and AH-64 Apache helicopters; Air Force C-130J Hercules; and Navy P-8 Poseidon, E-2D Hawkeye and MV-22 Osprey. Provides the requested amounts for procurement of Army Joint Tactical Radio Systems, Warfighter Integrated Network-Tactical Increment II, and Nett Warrior; Special Operations Command Warrior Systems and Operational Enhancements; and Marine Corps new build G/ATOR radar systems.

- **Research, Development, Test and Evaluation:** $65.8 billion, which is $1.7 billion below the request. Fully funds Basic Research and Applied Research programs in each Service. Fully funds Air Force Long Range Strike bomber and KC-46 tanker; Navy Next Generation Jammer and MQ-4 Triton UAV; and the Army/Marine Corps Joint Light Tactical Vehicle. Fully funds U.S.-Israeli cooperative missile defense programs, including an additional $173 million for the Arrow programs and David's Sling. Terminates the Virginia Payload Module.

- **Overseas Contingency Operations:** $77.8 billion, which is $2.9 billion below the request. The bill includes reductions of $416.8 million from the Afghanistan Security Forces Fund for light attack support aircraft and the bill provides no funds for Mi-17 helicopters. The bill includes restrictions on purchases from Rosoboronexport, the Russian arms export company.

For more information, go to:


**EDUCATION: HOUSE STUDENT LOAN INTEREST RATE BILL TO PRESIDENT**

By a vote of 392-31, the House on Wednesday, July 31, 2013, passed H.R. 1911, to reform the way in which interest rates for federal higher education loans are set.

The bill links rates to the 10-year Treasury note, with a certain percentage added on. The bill also would cap the highest rates possible for undergraduate loans at 8.25 percent, graduate loans at 9.5
percent and PLUS loans at 10.5 percent. The interest rate in effect at the time the money is borrowed would be fixed for the life of the loan. For this coming school year, undergraduate loans would be set at 3.86 percent, graduate loans at 5.41 percent, and PLUS loans at 6.41 percent. Student loan interest rates doubled to 6.8 percent on July 1st, when an interim moratorium expired.

The Senate bill passed H.R. 1911 on July 24, 2013, 81-8. The House had previously passed a slightly different version of the bill in May.

The Congressional Budget Office scored the bill as adding $715 million to the federal treasury over the next 10 years. Proponents of the bill, however, said that other estimates, using different accounting methods, show the swing could be anywhere from saving the government $184 billion to costing it $95 billion.


**HEALTH: HOUSE ENERGY & COMMERCE REPORTS “DOC FIX” BILL**

On Wednesday, July 31, 2013, the House Energy and Commerce Committee approved legislation to replace the Sustainable Growth Rate (SGR) formula that governs the Medicare payments made to physicians. The bill, H.R. 2810, was endorsed unanimously by a vote of 51-0. Enacted in 1997, the SGR has been a source of continued concern for physicians who serve Medicare beneficiaries and for the beneficiaries themselves. The system in effect rewarded quantity of services provided rather than the quality of care given. To prevent substantial Medicare reimbursement rate cuts, potentially resulting in fewer physicians serving Medicare patients, Congress has repeatedly had to pass a temporary “doc fix” to prevent the cuts.

The new proposal has two basic components: the Fee for Service Program (FFS) and Payment Choice Program. Under Phase I of the Fee for Service program, the bill would repeal SGR and replace it with a 5 year period of stable payments, in order to allow development and testing of quality measures and clinical practice improvement activities. The period of transition ends with the implementation of an enhanced Physician Quality Reporting System (PQRS) system, which links payments to provider excellence in the delivery of high quality care. All providers who meet or exceed their specialty specific requirements will receive a positive update.

Under the Payment Choice Program, eligible professionals can choose at any time to opt-out of the FFS program and participate in alternative payment models (APMs). These APMs may include such things as: Patient-Centered Medical Homes, specialty models, and bundles or episodes of care. Providers may submit proposals on an ongoing basis for innovative APMs through a newly developed, streamlined process that would encourage high quality, high value healthcare.

The Congressional Budget Office estimates the cost of repealing the current payment formula at $139.1 billion over 10 years.

For more information, go to: http://energycommerce.house.gov/sgr

**EDUCATION/WORKFORCE/LABOR: SENATE HELP COMMITTEE REPORTS**

**WORKFORCE INVESTMENT ACT**

On July 31, 2013, by a vote of 18-3, the Senate Health Education Labor and Pensions Committee reported S. 1356, the Workforce Investment Act of 2013. The law has not been reauthorized since 2003. WIA provides job placement and training services, as well as other programs, to workers, including young adults with disabilities, to improve employment opportunities.
Among the provisions included in the bill passed by the committee are ones putting a stronger emphasis on effective use of real-world data, performance indicators, and more stringent assessments and evaluations to determine the impact of workforce investments. The bill will also allow state and local workforce agencies to tailor their programs to specific needs. Among the education training opportunities emphasized are on-the-job training, incumbent worker training, customized training, transitional jobs, and sector strategies.

The bill includes the reauthorization of the Rehabilitation Act, including vocational rehabilitation (VR) programs. The updates are aimed at making sure that young people with disabilities have increased preparation and opportunities for competitive, integrated employment. The bill requires state VR agencies, in conjunction with local educational agencies, to make “pre-employment transition services” available to students with disabilities. The bill will also require individuals under the age of 24 with a significant disability to make a serious attempt at competitive, integrated employment—including getting pre-employment transition services and utilizing VR services—before he or she can consider working at a segregated workshop or sheltered employment setting. For individuals who are currently in sheltered employment settings, the bill will increase opportunities to move into competitive, integrated employment by requiring ongoing career counseling, information, and referrals about programs that offer employment-related services and supports. Updates to the bill also focus on creating better alignment of government programs at the national level that are focused on employment and independent living for people with disabilities.

For more information, go to:
http://www.help.senate.gov/newsroom/press/release/?id=ae086615-51a0-43a4-a9d2-18853a4dcb4a&groups=Chair

**INTELLECTUAL PROPERTY: SENATE JUDICIARY SUBCOMMITTEE EXAMINES PATENT DISPUTES AND ANTITRUST LAW**

The Senate Committee on the Judiciary's Subcommittee on Antitrust, Competition Policy, and Consumer Rights met on Tuesday, July 30, 2013 to examine the role that antitrust law should play in the alleged abuse of standard-essential patents ("SEPs").

Witnesses included: A. Douglas Melamed, Senior Vice President and General Counsel, Intel Corp, Santa Clara, CA; Donald J. Rosenberg, Executive Vice President, General Counsel and Corporate Secretary, Qualcomm, San Diego, CA; Suzanne Munck, Chief Counsel for Intellectual Property, Deputy Director, Office of Policy Planning, Federal Trade Commission, Washington, DC; and John D. Kulick, Ph.D., Chair, Standards Association Board, The Institute of Electrical and Electronics Engineers, New York, NY.

Mr. Melamed expressed his concern regarding patent owners who commit to license their patents used in industry standards on fair, reasonable, and nondiscriminatory ("FRAND") terms but then renege on those commitments once their patented technology is incorporated into the standard. Indeed, abuses of FRAND commitments pose a significant risk to competition, innovation, and consumer welfare, he said. He further discussed different types of abuses by owners of FRAND-encumbered SEPs that harm competition and consumers, including: (1) selective, strategic refusals to license; (2) charging unreasonable royalties; (3) imposing royalties for SEPs that are used only by components, such as Wi-Fi chips, on complete systems, such as PCs, that incorporate such components; (4) seeking or threatening injunctions against willing licensees; (5) requiring licensees to take licenses to patents that are not SEPs; and (6) transferring SEPs to entities that renounce the FRAND commitment made by the transferring SEP holder.
Mr. Melamed also suggested several solutions for mitigating the anti-competitive effects of the SEP hold-up problem, including: (1) enforcing the commitment to license everyone who implements the standard; (2) enforcing the commitment to charge reasonable royalties, which should only be imposed on the basis of the smallest saleable component; and (3) prohibiting holders of FRAND-encumbered SEPs from seeking or enforcing injunctions or exclusion orders except in special circumstances.

Mr. Rosenberg praised consensus-driven standards setting as "immensely successful," as demonstrated by the wireless communications industry, and cautioned against significant changes or overrides. He emphasized the heavy reliance that the wireless communications technology industry places on industry-wide standards that ensures interoperability between wireless devices (e.g., cell phones, laptops, tablets) and networks. Indeed, the standards-setting process more generally brings many pro-competitive benefits, including interoperability, economies of scale, and increased economic efficiency, he testified. He also stressed the current innovative nature of the wireless industry, which is evidenced by the new devices that are continually introduced to the market. Mr. Rosenberg concluded that legislative action in this area risks unintended consequences that could be damaging to the innovative spirit.

For more information, go to:
http://www.judiciary.senate.gov/hearings/hearing.cfm?id=042c67570e0fe19705acabb8230ee0c

**TAXES: SENATE FINANCE EXAMINES PRINCIPLES FOR ENERGY TAX REFORM**

The Senate Committee on Finance's Subcommittee on Energy, Natural Resources, and Infrastructure met on Wednesday, July 31, 2013 to examine energy tax reform strategies, including the utilization of private investment, government funding, tax credits, and targeted legislation.

Witnesses included: Senators Christopher A. Coons (DE), and Jerry Moran (KS); Phyllis Cuttino, Director, Clean Energy, The Pew Charitable Trusts, Washington, DC; Dan Reicher, Executive Director, Steyer-Taylor Center for Energy Policy, Finance at Stanford University, Professor, Stanford Law School, Lecturer, Stanford Graduate School of Business, Stanford, CA; Will Coleman, Partner, OnRamp Capital, San Francisco, CA; and Margo Thorning, Senior Vice President and Chief Economist, American Council for Capital Formation, Washington, DC.

Professor Reicher expressed his belief that a sustainable energy future involves simultaneous and coordinated progress in technology, policy and finance, including accelerating the development of clean energy technologies, adopting smarter, clean energy policies, and improving clean energy finance. He also discussed three finance challenges with connections to federal tax, regulatory, and fiscal policy, including: (1) significantly lowering the cost of financing renewable energy; (2) dramatically increasing investment in the energy efficiency of buildings; and (3) effectively commercializing energy technology. He advocated the use of Master Limited Partnerships and Real Estate Investment Trusts to lower the cost of financing renewable energy projects and encouraged passage of the Sensible Accounting to Value Energy (SAVE) Act and finding ways to improve private sector finance of efficiency retrofits of commercial and residential buildings. Finally, he asked Congress to recapitalize the loan guarantee program to reduce the cost of energy and ensure competition with China.

Mr. Coleman advocated the creation of a new energy innovation manufacturing tax credit that addresses the need for certainty, a level playing field, a focus on innovation, and the need to draw private capital in to address funding gaps. Specifically, the credit would accomplish the following: (1) provide incentives to companies and automatically sunset once a company hits a specified volume of production of a specific innovation; (2) use a secondary cap that limits the credit to a portion of the qualifying capital expenditures associated only with the portion of capital invested to enable the
innovative technology; (3) be technology-neutral across the electricity generation and fuels sectors and would be accessible to all companies that invest in scaling innovative technologies; and (4) be available to companies assembling final technologies as well as those component suppliers innovating further upstream in the supply chain.

For more information, go to:
http://www.finance.senate.gov/hearings/hearing/?id=bcf782eb-5056-a032-522b-c55f4fb2aba8

**INTELLECTUAL PROPERTY: HOUSE SUBCOMMITTEE LOOKS AT ROLE OF TECHNOLOGY IN INNOVATION**

The House Judiciary Subcommittee on Courts, Intellectual Property, and the Internet held a hearing entitled “Innovation in America: The Role of Technology,” on Thursday, August 1, 2013. Witnesses were: Danae Ringelmann, Founder & Chief Customer Officer, Indiegogo; Jim Fruchterman, President and CEO, Benetech; Nathan Seidle, CEO, SparkFun Electronics, Inc.; Rakesh Agrawal, Founder & CEO, SnapStream Media; and Van Lindberg, VP, Intellectual Property, Rackspace.

Ms. Ringelmann discussed the success her company, an online crowd-funding platform, has had in assisting new innovative businesses expand their sales. Many of these businesses have come to Indiegogo after being locked out of the traditional financial system. She encouraged the subcommittee to consider technology as both a product of innovation as well as a means of further innovation. She also stressed the need to foster "open models and applications of technology" like open source, crowdsourcing and Indiegogo’s open approach to funding, as necessary to not just innovating, but democratizing and thus revolutionizing industries.

Mr. Fruchterman testified that Benetech is one of Silicon Valley's leading technology nonprofits. Its goal is to see that the best technology and software gets applied to social needs where the standard off-the-shelf technologies have not proven effective. For instance, he said, Benetech is one of the leading providers of software for the human rights movement. It makes the Martus open source software for collecting and analyzing information about human rights abuses. He stressed that Benetech depends "on an intellectual property system that works and is friendly to innovation. Concepts like fair use, open source and open content make our work much easier, since they reduce the transaction costs for less lucrative uses of intellectual property. And, we frequently depend on the good will of companies and rights holders to provide us with free or inexpensive access to the assets that they control.”

For the testimony of all the witnesses, go to:
http://judiciary.house.gov/hearings/113th/hear_08012013.html

**SOCIAL SERVICES: HOUSE BUDGET EXAMINES FEDERAL EFFORTS TO REDUCE POVERTY**

The House Committee on the Budget met on Wednesday, July 31, 2013 to examine poverty in the United States and the progression of federal government efforts over the past several decades.

Witnesses included: Eloise Anderson, Secretary, Wisconsin Department of Children and Families; Jon Baron, President, Coalition for Evidence-Based Policy; Douglas Besharov, Professor, University of Maryland School of Public Policy; and Simone Campbell, SSS, Executive Director, NETWORK.

Mr. Baron criticized the current effectiveness of government programs in K-12 education, job training, and crime prevention. He further proposed several evidence-based solutions, including: (1)
focusing on certain work-centered welfare reform strategies, which have been shown to increase participants' employment and earnings 20-50%, and produce net government savings of $1,700 to $6,000 per person; (2) encouraging nursing home visitation for low-income, first-time mothers in order to significantly reduce child maltreatment and increase educational outcomes; (3) creating “H&R Block-like” college financial aid application assistance for low- to moderate-income students in order to increase college enrollment and persistence; and (4) launching Reemployment and Eligibility Assessments, an innovation in the Unemployment Insurance (UI) system, which has been shown to produce UI savings and increase UI claimants' earnings as much as 18%.

Professor Besharov argued that, in the past five decades, the United States has made much more progress against poverty than is suggested by the official poverty measure or the administration's new Supplemental Poverty Measure (SPM). He also expressed optimism about building on past progress, but only if government policies focus on challenges for low- and middle-income Americans, such as (1) the greater productivity of workers worldwide (especially through automation), and the consequent global competition over wages and outsourcing creating downward pressure on American wages, (2) rising health care expenditures that increase the cost of American labor and threaten to make it less globally competitive, and (3) an aging population that is making greater demands on underfunded public and private retirement systems, including Medicare and Medicaid.

For more information, go to: http://budget.house.gov/hearingschedule2013/hearing7312013.htm

REPORT: RAND RELEASES COMMENTARY ON TUITION COSTS

In a July 12, 2013 Commentary entitled “The Cost of Higher Education: The Big Picture,” RAND Senior Economist Rafiq Dossani examines the given wisdom that college tuition is too high, and concludes that “relative to costs, the price students pay grossly understates the true cost of education.”

“Tuition makes up just a small portion of the cost of education at non-profit institutions: 13 percent at the University of California system, 17 percent at Stanford, 19 percent at Harvard, 27 percent at the University of Pittsburgh and 32 percent in the California State University system, to name a few. The difference is made up by endowment income, government support, and research grants,” he writes.

Dossani argues that rather than focusing on efficiencies to bring tuition costs down, policymakers should focus on getting the price-to-cost relationship right. As a second step, they should also ensure that cost recovery through tuition reflects the quality of the education received. He also argues that, with regard to poor-performing for-profit institutions, policymakers should prod them to improve quality, rather than focusing on controlling their marketing practices.

To obtain Dossani’s report, go to: http://www.rand.org/blog/2013/07/the-cost-of-higher-education-the-big-picture.html